

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MEGAN JURIC and JUSTINE STUHL, on behalf of themselves and all others similarly situated,	:	
	:	Civil Action No. 2:20-cv-00651-MJH
Plaintiffs,	:	
	:	Electronically Filed
v.	:	
	:	
DICK’S SPORTING GOODS, INC.,	:	
	:	
Defendant.	:	

**DEFENDANT’S MOTION TO COMPEL ARBITRATION,
STRIKE CONSENT FORM, AND DISMISS CLAIMS OF
PURPORTED OPT-IN PLAINTIFF ANTHONY ALBACETE**

Defendant Dick’s Sporting Goods, Inc. (“Dick’s”) moves this Court, pursuant to the Federal Arbitration Act (“FAA”), 9 U.S.C. 4,¹ for an Order striking the Consent to Join form filed by Anthony Albacete (referred to herein as “Purported Opt-in Plaintiff” or “Albacete”), (ECF No. 15), dismissing the claims of the Purported Opt-in Plaintiff, and directing the Purported Opt-in Plaintiff to arbitrate his claims individually.² During his employment, Purported Opt-in Plaintiff Albacete entered into an Agreement to Arbitrate Claims with Dick’s, which requires him to arbitrate the claims he has asserted in this action on an individual basis. For this reason, and those stated more fully in Dick’s Memorandum of Law filed herewith, and Dick’s Memorandum of Law in support of its Motion to Compel Arbitration Strike Consent Forms, and Dismiss Claims of Purported Opt-In Plaintiffs (ECF No. 8), filed on May 12, 2020, the Consent to Join form filed by the Purported Opt-in Plaintiff Albacete should be ordered

¹ Or, in the alternative, the Indiana Uniform Arbitration Act, Ind. Code §§ 34-57-2-1, *et seq.*

² This motion is intended to be an extension of, and construed in conjunction with, Defendant’s Motion to Compel Arbitration Strike Consent Forms, and Dismiss Claims of Purported Opt-In Plaintiffs (ECF No. 7), filed on May 12, 2020.

stricken, the Purported Opt-in Plaintiff should be dismissed from this action without prejudice, and the Purported Opt-in Plaintiff should be ordered to arbitrate his claims on an individual basis.

Respectfully submitted,

/s/ Robert W. Pritchard

Robert W. Pritchard (PA # 76979)

Katelyn W. McCombs (PA # 323746)

Megan A. Smith (PA # 324901)

LITTLER MENDELSON, P.C.

625 Liberty Avenue, 26th Floor

Pittsburgh, PA 15222

412.201.7628/7641/7654 (t)

412.774.2296 (f)

rpritchard@littler.com

kmccombs@littler.com

mesmith@littler.com

Dated: May 18, 2020

Attorneys for Defendant,

Dick's Sporting Goods, Inc.

CERTIFICATE OF GOOD FAITH EFFORTS

I hereby certify that Dick's made good faith efforts to confer with Plaintiffs to avoid the need to file this motion by seeking to have Purported Opt-in Plaintiff Albacete voluntarily agree to withdraw his Consent to Join form and arbitrate his claims individually pursuant to his Agreement to Arbitrate Claims with Dick's. On May 13, 2020, undersigned counsel provided confirmation to Plaintiffs' attorneys (Gary Lynch, Justin Swartz, Gregg Shavitz, Pooja Shethji, and Michael Palitz) that Albacete was subject to the arbitration agreement (a copy of which was previously provided to counsel for the nonmoving party and which was also filed in this action at ECF 8-1). Undersigned counsel notified Plaintiffs' attorneys of Dick's intent to file a motion to strike Albacete's Consent to Join form and dismiss him from the action. Undersigned counsel requested that Plaintiffs withdraw Albacete's Consent to Join form and dismiss him from the action to avoid the need to file this motion. Counsel for the parties (including Justin Swartz, Gregg Shavitz, and Pooja Shethji on behalf of Plaintiffs) conferred on this request by telephone on May 15, 2020. On May 18, 2020, Plaintiffs' counsel reported that Albacete did not agree to withdraw his consent filing or voluntarily dismiss his claim.

/s/ Robert W. Pritchard

Robert W. Pritchard

May 18, 2020

CERTIFICATE OF SERVICE

I certify that on this 18th day of May, 2020, a true and correct copy of the foregoing was filed using the Western District of Pennsylvania's ECF system, through which this document is available for viewing and downloading, causing a notice of electronic filing to be served upon all counsel of record:

Gary F. Lynch, Esq.
CARLSON LYNCH LLP
1133 Penn Avenue, 5th Floor
Pittsburgh, PA 15222
Email: glynch@carsonlynch.com

Justin M. Swartz, Esq.
OUTTEN & GOLDEN LLP
685 Third Avenue, 25th Floor
New York, NY 10017
Email: jms@outtengolden.com

Pooja Shethji, Esq.
OUTTEN & GOLDEN LLP
601 Massachusetts Ave NW, Suite 200W
Washington, DC 20001
Email: pshethji@outtengolden.com

/s/ Robert W. Pritchard